

ANNUAL REPORT
OF THE
NATURAL RESOURCES STUDY COMMITTEE



Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204

December, 2011

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2011

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NATURAL RESOURCES STUDY COMMITTEE

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation directing the Natural Resources Study Committee (Committee) to do the following:

- Conduct a continuing study of the laws relating to the Department of Natural Resources (DNR) to the end that legislation may be proposed to better serve the citizens of Indiana. The Committee is to consult with representatives of DNR and citizens of Indiana for the purpose of proposing legislation to accomplish the following:
 - (a) repeal of outmoded or unnecessary laws;
 - (b) consolidation and restatement of existing laws;
 - (c) improved coordination of state laws with federal laws; and
 - (d) addition or amendment of laws that will further the purpose for which the DNR was created. (IC 2-5-5-3)
- Advise and assist the DNR in programming its activities and in developing a long-range plan for land acquisition, capital improvement, and development of facilities. (IC 2-5-5-3)
- Receive reports from the Lake Management Work Group. (IC 2-5.5-3)
- Oversee the Water Resource Management Program under IC 14-25-7. (IC 14-25-7-16)
- Receive reports from the Invasive Species Council every odd numbered year. (IC 15-16-10)

The Legislative Council assigned the following additional responsibilities to the Committee:

- The present and future use of Versailles Lake to meet the needs of the public water supply of the surrounding communities.
- Options to increase the volume of water in Versailles Lake, including transforming Versailles Lake into a reservoir.
- Options to increase and enhance the recreational opportunities and fish and wildlife habitat at Versailles Lake.
- Potential funding sources to pay for any recommended changes made to Versailles Lake.
- Any other topic related to Versailles Lake or the public water supply of surrounding communities.
- The extraction and severance of minerals in Indiana.
- Whether or not customers only frequenting a restaurant within a state park should pay an entrance fee.

II. INTRODUCTION AND REASONS FOR STUDY

The Natural Resources Study Committee met to carry out its statutory responsibilities under IC 2-5-5-3, IC 2-5.5-3, IC 14-25-7-16, IC 15-16-10 and the responsibilities assigned by the Legislative Council.

III. SUMMARY OF WORK PROGRAM

The Committee met two times during the 2011 interim. Meetings were held as follows:

1. September 19 and 20, 2011, at Brown County State Park, Nashville Indiana.
2. October 27, 2011, at Fort Harrison State Park, Lawrence, Indiana.

IV. SUMMARY OF TESTIMONY

The Committee heard testimony from DNR professionals, members of the Indiana General Assembly, representatives from various associations, private citizens, and other interested parties. An overview of their testimony is presented below.

State Parks

Doug Baird, Park Manager, DNR, presented information on the history, development, and facilities at Brown County State Park.

Update on Recent Natural Resources Issues

Chris Smith, Director, Legislative Relations, DNR, provided an update on several issues before DNR in the previous year, including:

- Revenues from various licenses and fees are down 3% from the previous year.
- A summary of legislation and rules that have been adopted.
- DNR conducted the 3rd Annual Hoosier Outdoor Experience Program at Ft. Harrison State Park in September.
- Inns at the parks have been operating at about a 60% occupancy level.
- The use of lakes and rivers by sportsmen and recreational boaters has been busy.

Present and Future Use of Versailles Lake

Representative Randy Frye, House District 67, discussed the problems of silting in Versailles Lake, water needs of the local community, and future development of Versailles State Park. A solution to the water supply problem had been found. Funding is needed to dredge the lake. The park and community would benefit from certain capital improvements.

Chris Smith, Legislative Director, DNR, stated that because of the site where Versailles Lake was built, it is subject to sedimentation. The dredging alone will not prevent future silt deposits.

Invasive Species Council Update

Steve Yaninek, Chair, Indiana Invasive Species Council (Council), presented the Council's 2011 report and discussed the following":

- The history of the establishment and formation of the Council.
- The creation of specialized work groups and advisory committees.
- The identification of other groups, associations, and governmental agencies that identify or manage invasive species.
- The need of the Council to have all members appointed to adequately perform its duties.
- The Natural Resources Commission's proposed rule prohibiting the sale, distribution, and transportation of certain invasive aquatic plants.

Phil Marshall, State Entomologist, DNR, stated that the Invasive Plant Advisory Committee is trying to identify terrestrial invasive plants and rate each plant on its invasive tendencies. He also discussed several invasive species in the state and efforts to eliminate or control them.

Park Fees for Park Restaurant Guests

Representative David Cheatham, House District 69, talked about the idea of allowing a person who only wants to eat at a restaurant at the lodge at a park to not have to pay to enter the state park. He indicated that he had discussed this concept with park personnel and discovered information on seasonal changes in park fees, an attempt by the park to implement the concept, uses of park fees, and exceptions to park fees currently in place.

Daniel Bortner, Director, State Parks and Reservoirs, DNR, informed the Committee of fee based entrance fees, uses of fees collected, and problems that would be encountered if trying to refund entrance fees.

Water Resources Management Program Update

Mark Basch, Section Head, Water Rights and Use, Division of Water, DNR, delivered a presentation entitled "Update of Water Resource Availability, Management and Distribution in Indiana". The information included the following:

- Indiana maintains an electronic map of state groundwater resources that is accessible to the public. The U.S. Geological Survey maintains information concerning long term stream flow.
- A summary of laws that regulate significant water withdrawal facilities (SWWF), including compensation to owners of domestic wells affected by high capacity groundwater pumpage, restrictions on high capacity ground water pumping, and

protection from the impacts of SWWF's on freshwater lakes.

- The state is allowed to sell water from reservoirs for water supply purposes.
- In 2013, the provisions of the Great Lakes Compact concerning withdrawals and consumptive uses come into effect.
- Indiana has adopted a voluntary statewide water efficiency and conservation program.

Glenn Pratt, Sierra Club & NAACP, stated that the Indiana Utility Regulatory Commission has been working on adopting conservation goals for public water systems.

Lake Management Work Group Update

Representative Dick Dodge, House District 51, presented the Lake Management Work Group (Work Group) report to the Committee. He discussed topics that have been considered by the Work Group, legislative proposals and the need to restore funding to the Lake and River Enhancement (LARE) Fund to provide new grants to improve lakes and watersheds.

Chris Smith, Legislative Director, DNR, stated that LARE Fund money became available again in July. Existing applications were used to award the grants and applications for new purposes will be available for the next grant cycle.

Restrictions on Fertilizers Containing Phosphorous

Representative Dick Dodge, House District 51, provided background information concerning phosphorous in fertilizers. He Discussed the problems local communities have faced, proposed legislation to restrict fertilizers containing phosphorous, restrictions adopted in other states, and the response by fertilizer manufacturers.

Dr. Bob Waltz, State Chemist, stated that the issues and solutions to addressing phosphorous in lakes are complex, the State Chemist's Office has been working with the local residents to address this problem, most established lawns do not need fertilizers that contain phosphorous, many companies have started offering phosphorous free lawn fertilizers, commercial fertilizer applicators are required to be certified and receive continuing education, and phosphorous is not a restricted use product.

Reggie Cornett, Green Industry Alliance, stated that turf managers use phosphorous as a tool to manage lawns. It is being used less often because of training, education, and cost. The State Chemist currently has authority to adopt rules regulating the application of phosphorous.

Glenn Pratt, Sierra Club & NAACP, stated that the state and U.S. Environmental Protection Agency (EPA) studied the effects that phosphorous had on lakes 40 years ago. Many farmers have begun practicing no-till planting to reduce the run-off of sediment and nutrients from farm fields. Education by itself is not enough, restrictions are needed for both consumer and

professional applicators. Soil testing should also be required.

Barb Simpson, Indiana Wildlife, stated that a local survey of garden stores discovered that all the stores offered some phosphorous free fertilizers. There is a need for more consumer information at the point of purchase. Restricting the application of these fertilizers will affect a piece of the overall problem. Consumers and governmental agencies are spending lots of money to clean up the waterways and lakes, but a reasonable restriction would help reduce the problem.

Mark Shublak, Agribusiness Council of Indiana, stated a concern is that a ban on residential use of phosphorous fertilizers will eventually become a ban on their use in agriculture. States setting up their own restrictions on the amount of phosphorous in residential fertilizers make it difficult for manufacturers that have to make different blends for each state. Manufacturers are already reducing the amount of phosphorous for home lawns and farmers do not want to waste money on nutrients that are not needed. If any restrictions are needed they should come from the State Chemist.

Falon French, Hoosier Environmental Council, stated that some gardening centers provide information for consumers, others do not. HB1425 would have placed some restrictions on the non-agricultural application of fertilizers containing phosphorous, but would have also required consumer information to be made available. Other ideas that could help include providing information on how to minimize runoff and requiring soil testing.

Bob Kraft, Indiana Farm Bureau, stated that there is a problem with consumers applying their own fertilizer improperly and how to effectively deal with the improper use. Any restrictions create a slippery slope that may include farmers. He would prefer to allow the State Chemist to adopt rules regulating phosphorous.

John Hughes, Farmer, stated he does not want to have a store clerk require a soil test before fertilizers can be purchased. He noted that some fishery groups actually suggest adding phosphorous to new ponds to encourage plant growth.

Indiana Courthouse Preservation

James Glass, Director, Division of Historic Preservation and Archaeology, DNR, stated that county courthouses provide a great example of period architecture. County courthouses supply a source of pride and identity for the community. Businesses are more likely to locate and invest in rehabilitation of buildings that surround historic court houses. Some of the needs that have been identified include adequate funding, problems associated with deferred maintenance, and the need for additional space.

Marsh Davis, President, Indiana Landmarks, stated that there are 83 of the original historic county courthouses left in the state. The courthouses reflect a wide variety of architectural styles. Each historic courthouse has been visited to assess the level of care and maintenance for each county courthouse. In the Courthouse Preservation Advisory Commission's report, 14

recommendations were made.

Hon. J. Steven Cox, Judge, Franklin County Circuit Court, stated that the Franklin County Courthouse had undergone rehabilitation in the 1970's, but unfortunately the project was poorly done. During a subsequent rehabilitation project, Franklin County had requested to use riverboat money to help with the project. There was disagreement over the issue of whether rehabilitating the courthouse was considered an economic development project. Studies show that courthouses have a similar effect on a community that an anchor store does at a shopping mall.

Kevin Woodward, County Commissioner, Wells County, stated that county commissioners want to preserve their courthouses. However, it costs money to rehabilitate a courthouse correctly. Wells County was able to secure CEDIT money for their courthouse renovation eight years ago. The law needs to be clarified so it is clear that CEDIT and CAGIT money can be used for these projects. Preventive maintenance saves money rehabilitating courthouses in the long run.

Wabash River Preservation/Two-stage Ditches

Lynn Dennis, Director of Government Relations, Indiana Chapter of The Nature Conservancy (TNC), explained that TNC has been developing a plan to preserve the Wabash River.

Matt Williams, Regional Director, TNC, stated that TNC studies the diversity of terrestrial and aquatic species in each eco-region of the state. The Wabash River drains two-thirds of the water in the state. The Wabash river contains a high diversity of species but it also contains many threatened species. Threats to the species in the river include invasive species, loss of riparian areas, and chemicals. The greatest problem comes from sedimentation, especially from agricultural ditches. TNC developed a two-stage ditch as a solution. The new ditch reduces sediment flow to the waterways. The new ditch costs more to build but has a much lower maintenance cost. TNC has 25 demonstration sites in the state to show county surveyors the advantages of the new design.

Sarah Roley, Ph.D. Candidate, University of Notre Dame, stated that two-stage ditches remove three times the amount of nitrogen that is removed in a traditional ditch. As the two-stage ditches age, they remove even more nitrogen. Two-stage ditches allow particles to settle out onto floodplains, limiting turbidity and sediment export. Habitats with two-stage ditches have improved.

Bicycle Trails and Routes

Steve Morris, Director, Outdoor Recreation, DNR, stated that a major goal of DNR's trails plan is to have a trail either within 15 minutes or 7.5 miles of every resident of the state. As of July 2011, about 96.5% of Indiana residents are within 7.5 miles of a trail. Another goal has been to inter-connect the trails. About 30% of the trails have been inter-connected. A combination of

private and governmental funds have been used to create trails throughout the state. Most of the money has come from the federal government.

Eric Powell, Public Policy Analyst, Indiana Rail Road Company, stated that in 2006 the Indiana Rail Road Company purchased 92 miles of track lines from the Canadian Pacific Railroad. It was determined that 21 miles of the railroad line could be abandoned. Some of the land is owned by the Indiana Rail Road Company, but other land is owned through easements held by adjoining land owners. Once their company starts to pull the tracks, there is a limited time to convert the land to trails before the land reverts to the easement owners. Adopting a law similar to Wisconsin's law would give the state right of first refusal to acquire rail right of way.

Nursery System

John Seifert, Director, Division of Forestry, DNR, stated that during the turn of the century loss of forest cover led to serious soil erosion, siltation of streams and lakes, and a shortage of timber. Beginning in 1901, state legislation was enacted to address these problems. By 1903, steps were being taken to establish the first state nursery at Clark Forest Reservation. The mission of the two state nurseries is to grow and distribute to Indiana landowners high quality native plant materials for conservation planting. Conservation planting includes plantings for timber, wildlife, windbreaks, soil and water protection, mine reclamation, carbon sequestering, and education. Most of the trees that are sold are 1-2 year old seedlings. The nursery sales are priced to recover the cost of production.

John Hensler, Owner, Hensler Nursery, Starke County, stated that private nurseries have faced hard times since the economic downturn in 2000. His business has suffered a 50% decline. He stated that DNR has fulfilled its mission to reforest the state. The state nurseries should be closed.

Mark O'Brien, Nursery Director, Cardno JFNew Nursery, St. Joseph County, stated that the DNR nursery produces a great product, but questioned the need of a government business, that is subsidized, to produce seedlings that can be produced by private businesses. The state nurseries should be shut down.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee adopted the following recommendation by a vote of 5-0:

That the General Assembly should define the rehabilitation, restoration, and maintenance of historic county courthouses as economic development projects, allowing counties to use revenues from various funding streams (e.g. the County Economic Development Income Tax and County Adjusted Gross Income Tax) for such projects.

The Committee adopted the Final Report by a vote of 5-0.

WITNESS LIST

Mark Basch	Section Head, Water Rights and Use, Division of Water, DNR
Daniel Bortner	Director, State Parks and Reservoirs, DNR
Doug Baird	Park Manager, Brown County State Park, DNR
Representative David Cheatham	House District 69
Reggie Cornett	Green Industry Alliance
Hon. J. Steven Cox	Judge, Franklin County Circuit Court
Marsh Davis	President, Indiana Landmarks
Lynn Dennis	Director of Government Relations, Indiana Chapter of The Nature Conservancy
Representative Dick Dodge	House District 51
Falon French	Hoosier Environmental Council
Representative Randy Frye	House District 67
James Glass	Division of Historic Preservation and Archaeology, DNR
John Hensler	Owner, Hensler Nursery
John Hughes	Farmer
Bob Kraft	Indiana Farm Bureau
Phil Marshall	State Entomologist, DNR
Steve Morris	Director, Outdoor Recreation, DNR
Mark O'Brien	Nursery Director, Cardno JFNew Nursery
Eric Powell	Public Policy Analyst, Indiana Rail Road Company
Glenn Pratt	Sierra Club & NAACP
Sarah Roley	Ph.D. Candidate, University of Notre Dame
John Seifert	Director, Division of Forestry, DNR
Mark Shublak	Agribusiness Council of Indiana
Barb Simpson	Indiana Wildlife Federation
Chris Smith	Legislative Director, DNR
Dr. Bob Waltz	State Chemist
Matt Williams	Regional Director, Indiana Chapter of The Nature Conservancy
Kevin Woodward	County Commissioner, Wells County
Steve Yaninek	Chair, Indiana Invasive Species Council, Professor of Entomology, Purdue University